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October 6, 2023

VIA ECF and Email: Failla NYSDChambers@nysd.uscourts.gov

Honorable Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: *Andrew Mason v. City of New York et al.*, 23-CV-00029 (KPF)

Your Honor:

I am a Senior Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and attorney for the City of New York, Vincent N. Schiraldi, and Kenneth Stukes (“Defendants”) in the above referenced matter. For the reasons set forth below, Defendants write to respectfully request an additional four business days, from October 6, 2023 to October 13, 2023, to respond to Plaintiff’s October 3, 2023 Letter Motion for Local Rule 37.2 Conference. *ECF No. 37*. Plaintiff’s counsel, Joshua S. Moskovitz, does not consent to Defendants request for the reasons set forth below.

Per Plaintiff’s counsel, in requesting Plaintiff’s consent for this application, Defendants’ counsel provided no explanation why Defendants needed this lengthy extension. Paragraph 3(c) of Your Honor’s Individual Rules of Practice in Civil Cases sets a three-business day deadline for a response to a Rule 37.2 letter motion. Defendants have asked for seven business days without explanation (at least, without explanation to Plaintiff’s counsel in seeking Plaintiff’s consent). Given the lengthy history of Defendants’ delays in this case, any further delays will further prejudice Plaintiff. We also note that, coincidence or not, Defendants have asked to extend their time to respond to the same date by which Plaintiff asked the Court to direct Defendants to produce the missing discovery in this case. Accordingly, Plaintiff cannot consent to this motion.

The reason for this request is that Defendants need more time to investigate a discrepancy between the videos produced and the videos referenced in one of the reports, which is the subject of a portion of Plaintiff’s motion to compel. Further, Defendants need more time to

investigate new information that has come to light regarding the underlying incident to adequately respond to Plaintiff's motion.

Accordingly, Defendants respectfully request an extension until October 13, 2023 to respond to Plaintiff's Letter Motion for Local Rule 37.2 Conference.

Thank you for your consideration of the instant application.

Respectfully submitted,

Thomas Lai s/

Thomas Lai

Senior Counsel

Special Federal Litigation Division

To: VIA ECF

Joshua Samuel Moskovitz

Adam Ivan Strychaluk

Calla Ketchens

Jason Louis Leventhal

Attorneys for Plaintiff

Application GRANTED IN PART. Defendants may have until **October 11, 2023**, to file a response to Plaintiff's letter dated October 3, 2023. There will be no further extensions, and Defendants' counsel are directed to move as expeditiously as possible so as to cause no further delay.

The Clerk of Court is directed to terminate the pending motion at docket number 38.

Dated: October 6, 2023
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE